

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
CHARLES L. DECESARE,

Plaintiff,

-against-

THE AETNA LIFE INSURANCE COMPANY,
AND THE DRESS BARN LONG TERM
DISABILITY PLAN,

Defendants.

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Civ. Act. No.: 12 Civ. 7162 (KMK)

**NOTICE OF MOTION FOR
SUMMARY JUDGMENT**

DOCUMENT
ELECTRONICALLY FILED

PLEASE TAKE NOTICE that, upon the Declaration of Julia Bell dated July 11, 2014, and the exhibits annexed thereto, the Declaration of Michael H. Bernstein, Esq. dated July 11, 2014, and the Declaration of Timothy Mitton dated July 11, 2014, the Defendants' Rule 56.1 Statement of Material Facts, and Memorandum of Law in support, all simultaneously submitted herewith, defendants, Aetna Life Insurance Company ("Aetna") and The Dress Barn Long Term Disability Plan (the "Plan"), by their attorneys, Sedgwick LLP, will move this Court, on a date and at a time set by the Court, before the Hon. Kenneth M. Karas, U.S.D.J., at the United States District Courthouse for the Southern District Of New York, 300 Quarropas Street, Courtroom 521, White Plains, NY 10601-4150, for an Order pursuant to Rule 56, FED. R. CIV. PROC., granting summary judgment dismissing plaintiff Charles L. DeCesare's Amended Complaint with prejudice on the grounds that Aetna's decision to deny the his claims for continuing long term disability benefits and life insurance premium waiver benefits under the Employee Retirement and Income Security Act of 1974 ("ERISA") §502(a)(1)(B); 29 U.S.C. §1132(a)(1)(B), was not arbitrary and capricious, and for such other and further relief as this Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that, oral argument will be on a date and at a time designated by the Court.

Dated: New York, New York
July 11, 2014

Respectfully Submitted,

s/_____

Michael H. Bernstein

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Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the attached **NOTICE OF MOTION FOR SUMMARY JUDGMENT** was served via regular mail and ECF July 11, 2014 upon:

BARBARA A. MATARAZZO, ESQ.
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s/_____
MATTHEW P. MAZZOLA